

General Information Letter: The Department of Revenue cannot provide guidance regarding whether "local law" prohibits the claiming of a person as a dependent for federal income tax purposes.

March 1, 2006

Dear:

This is in response to your letter, received January 18, 2006, in which you request advice. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is www.revenue.state.il.us/legalinformation/regs/part1200.

The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state as follows:

I work at COMPANY in CITY, IL and have a question concerning 'Local Law' in Illinois. I know cohabitation is not recognized, but is there a local law that is violated by the taxpayer claiming his/her boyfriend/girlfriend as a dependent on the Illinois return if the boyfriend/girlfriend has no income and lives with the boyfriend/girlfriend the entire year as a member of the household? On the federal return, you may take an exemption for a girlfriend/boyfriend as an 'Other' on the line for exemptions. The COMPANY Basis class book and Pub 17 both state that a person living in the home that violates 'local law' is not allowed on the tax return at all, even as a member of the household.

I called about this question a few weeks ago and was told to write to:

Illinois Department of Revenue
Willard Ice Building
101 W. Jefferson
Springfield, IL 62702

I wrote to the Department of Revenue, Willard Ice Building, and they received my letter 12/13/2005. The Taxpayer Correspondence Section; Illinois Department of Revenue informed me Illinois does not recognize common law marriages per 750 ILCS 5/214 and if I had further questions to write to you.

Please let me know if 'Local Law' is violated in IL if a taxpayer claims an 'Other' on the federal exemption line (girlfriend/boyfriend) and these exemptions are carried to the Illinois return as an exemption.

RESPONSE:

IT 06-0004-GIL

March 1, 2006

Page 2

Unfortunately, the Department cannot issue an opinion on this matter. While the ultimate issue concerns dependent exemptions for Illinois Income Tax purposes, the necessary threshold question involved is a matter of criminal law.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 Ill. Adm. Code Part 1200.

Sincerely yours,

Jackson E. Donley,
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